IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 3472 of 1997

Between:

The Hyderabad Urban Development Authority rep.by its Secretary, Paigah Palace , Police Line, Begumpet, Hyderabad.

..... PETITIONER

AND

1 The Additional Industrial Tribunal Cum Additional Labour Court, Hyderabad.
2 K.I.Damodar, S/o. K.Bhaskar Rao, H.No. 12-7-57, Mettuguda, Secunderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Certiorari calling for records pertaining to I.D.No. 2/90 dt.5.11.94 on the file of The Additional Industrial Tribunal cum Additional Labour Court, Hyderabad.

Counsel for the Petitioner : MR.T.NIRANJAN REDDY

Counsel for the Respondent No.2 : MR.V.VISWANATHAM

The Court made the following :

O R D E R:

This Writ Petition is filed by the Management aggrieved by the Award passed by the Additional Industrial Tribunal-Labour Court, Hyderabad in I.D.No. 2 of 1990, dated 05-11-1994.

2. According to the respondent-workman, he was appointed as attender on daily wage basis on 12.6.1985 and was continued till June 1989. He fell sick and applied leave for ten days from 5.7.1989 enclosing the medical certificate. After the expiry of the said leave period, when he reported for duty on 17.7.1989, he was not permitted to join duty by the then Land Acquisition Officer, Tarnaka, Secunderabad, attached to the Management, stating that his services are not required. Therefore, the workman approached the Labour Court. Before the Labour Court both sides adduced evidence and as per the contentions of the workman, the Management did not apply the provisions of the Industrial Disputes Act, 1947, even though he has completed more than 240 days of continuous service under the Management. The Labour Court after considering the rival contentions passed an Award directing the respondents to reinstate the workman into service as daily wage employee with continuity of service and other benefits, but, however, denied the benefit of back wages. Questioning the same, the Management has come up with the present Writ Petition.

3. This Court, though passed an interim order, but insofar as the reinstatement is concerned, did not pass any order in favour of the Management. Therefore, it is represented that the workman was reinstated into service.

4. The contention of the learned counsel for the Management is that the workman was engaged as a worker on daily wage as and when there was work, and since the said work was over and when the services of the workman were no longer required,

his services were dispensed with. Therefore, there is no requirement to comply with the provisions of the Industrial Disputes Act, 1947, as the workman did not prove that he had worked for more than 240 days continuously, as required under the provisions of the Act.

5. The learned Counsel for the Respondent-workman, on the other hand, supported the findings of the Labour Court. The learned counsel also referred to the findings recorded by the Labour Court in Para-14, where the Labour Court recorded a finding that the workman had continuously worked with a break of one day for every two months, as admitted by MW-1, who is the employee of the Management.

6 . Heard the learned counsel for the petitioner-Management and the learned counsel for the respondent-workman, and considered the material on record.

7. Though the management disputed that the workman had worked for 240 days continuously in order to require compliance with the provisions of the Act, but the Labour Court, on appreciation of evidence, recorded a finding that the workman had worked for more than 240 days continuously, as admitted by MW-1, and, therefore, ordered reinstatement of the workman with continuity of service, but without back wages. Aggrieved by that, the management has come up with the present Writ Petition. Though the learned counsel for the petitioner-Management disputed the findings recorded by the Labour Court, this Court declines to go into the said contentions, as it is not open to this Court to re-appreciate the evidence and give any finding contrary to the findings recorded by the Labour Court.

8. Under the above circumstances, the Writ Petition is devoid of merit and the same is accordingly dismissed. No costs.

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S. Ananda Reddy, J.

Dt. 28.10.2004

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To

1 The Additional Industrial Tribunal Cum Additional Labour Court, Hyderabad.
2. 2CD copies

THE HON'BLE MR. JUSTICE S. ANANDA REDDY

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W.P.No. 3472 of 1997

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